

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JEANNA S. ADAMO,

Plaintiff,

v.

Civ. No. 15-971 JB/GBW

RAYMOND L. ROMERO, *et al.*,

Defendants.

ORDER REGARDING FILINGS

Before the Court are Plaintiff's Motion for Leave to File Sur-Reply (*doc. 59*),¹

Plaintiff's Motion for Leave to File Sur-Reply (*doc. 61*),² and Defendants Motion to Strike
(*doc. 64*).

Under Local Rule 7.4(b), “[t]he filing of a surreply requires leave of the Court.”

D.N.M.LR-Civ 7.4(b). A motion for leave to file a surreply should be granted where the moving party, in a reply brief, presents legal arguments or evidence not proffered in the original motion. *See Green v. New Mexico*, 420 F.3d 1189, 1196 (10th Cir. 2005).

In neither of Plaintiff's motions does she allege that Defendants in their reply brief “present[ed] legal arguments or evidence not proffered in the original motion.” *Id.* As such, there is no basis for permitting a surreply. Thus, both motions for leave to file surreply are hereby denied. Plaintiff, however, did not wait for leave of court to file her

¹ This motion relates to the briefing for Defendants' motion to dismiss at *doc. 20*.

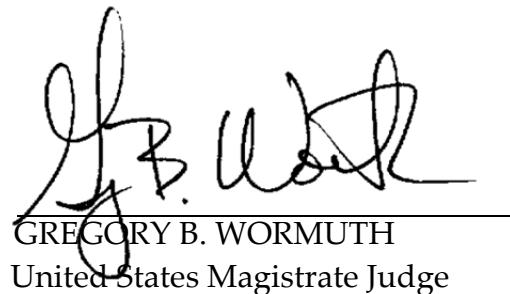
² This motion relates to the briefing for Defendants' motion to dismiss at *doc. 7*.

surreplies. *See* docs. 60, 62. Nonetheless, they have been marked as “filed in error” and will not be considered by the Court when ruling on the motions to dismiss.

Moreover, Plaintiff filed a third surreply for which she never sought leave. *See* doc. 7 (motion to dismiss), doc. 38 (Plaintiff’s response), doc. 44 (reply), doc. 56 (surreply entitled “rebuttal”). As this filing lacked leave of the court, it also will not be considered.

Given that the offending filings (docs. 56, 60, 62) will not be considered, Defendants’ motion to strike them will be denied as moot.

IT IS SO ORDERED.



GREGORY B. WORMUTH
United States Magistrate Judge